

AMENDED IN ASSEMBLY JUNE 20, 2006

SENATE BILL

No. 1641

Introduced by Senator Soto

February 24, 2006

An act to amend Section 1536.2 of, and to add Section 1530.3 to, the Health and Safety Code, relating to foster care.

LEGISLATIVE COUNSEL'S DIGEST

SB 1641, as amended, Soto. Foster care providers.

Existing law provides for the licensure and regulation of community care facilities, including foster family agencies, foster family homes, small family homes, and group homes as defined, by the State Department of Social Services.

~~This bill would require the State Department of Social Services by February 1, 2007, to convene a workgroup to review state foster care licensing statutes, regulations, and policies, to determine whether those requirements ensure that foster children and youth are not unnecessarily stigmatized by placement in unnecessarily restrictive environments. The bill would also require the workgroup to assess whether the statutes, regulations, and policies hinder the recruitment of qualified foster parents, and to consider opportunities for creating efficiencies in the department's foster care licensing process. The bill would require the workgroup to issue a report, by December 31, 2007, with recommendations to the Legislature for statutory, regulatory, and policy changes.~~

This bill would require the Director of Social Services to report to the Legislature on the progress of the department's children's residential regulation review workgroup, including recommendations being considered for statutory, regulatory, and policy changes, any

workplan for the implementation of those recommendations, and an assessment of how the proposed recommendations would eliminate stigmatizing impacts on foster children and youth and promote the recruitment of qualified foster parents.

Under existing law, when a placement agency has placed a child with a foster family agency, the foster family agency is required to place the child in a licensed foster family home or certified family home that best meets the needs of the child.

This bill would expand this provision to include instances when a placement agency places a child with a relative caregiver, nonrelative extended family member, licensed foster family home, or group home. The bill would define a home that meets the best needs of the child to include a home that meets the child's health, safety, and well-being needs, is the least restrictive and most family like environment, and allows the child to engage in reasonable, age-appropriate activities, as specified. The bill would require the foster child's caregiver to use a reasonable and prudent parent standard to determine these age-appropriate activities.

Violation of the provisions relating to the licensing and regulation of community care facilities is a misdemeanor. By revising the requirements applicable to placement agencies and foster care providers, the bill would change the definition of a crime, thereby imposing a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. The Legislature finds and declares as follows:
- 2 (a) Many of the state's foster care licensing statutes,
- 3 regulations, and policies have understandably been developed
- 4 with the sole objective of protecting the safety of children and
- 5 youth in foster care, with little regard for the creation of a foster
- 6 home environment that resembles actual nonfoster care living

environments. In many cases these rules serve to stigmatize foster children and youth by subjecting them to conventions dissimilar to other children. These rules are also often viewed as unreasonable by prospective foster parents and therefore serve to discourage them from becoming foster parents. Foster care licensing requirements should be developed and implemented in a manner that is consistent with current program best practices and the goals and objectives of the Child Welfare System Improvement and Accountability Act of 2001 (Chapter 678 of the Statutes of 2001). Additionally, the Community Care Licensing Division of the State Department of Social Service *Services* spends needless time and resources investigating and enforcing requirements that do little to promote the well-being of children. The division's resources can more effectively be directed toward requirements that enhance both the safety and well-being of children in foster youth while encouraging more foster care providers.

(b) The State Department of Social Services has convened a children's residential regulation review workgroup, which includes representatives of the department and interested stakeholders, to review community care licensing foster care statutes, regulations, and policies, to ensure that they promote the safety and well-being of children and youth in foster care, and who are leaving foster care.

~~(b)~~

(c) It is therefore the intent of the Legislature to ensure that youth placed in out-of-home foster care be given an opportunity to live in an environment that resembles as closely as possible nonfoster care families. It is the further intent of the Legislature to ensure that all licensing statutes, regulations, and policies serve to promote the well-being of children and youth in foster care and who are leaving foster care and to ensure children and youth are safe and protected in foster care.

~~SEC. 2. Section 1530.3 is added to the Health and Safety Code, to read:~~

~~1530.3. (a) The Director of Social Services shall establish a workgroup to review all state foster care licensing statutes, regulations, and policies to determine whether those requirements serve to not only protect the safety of children and youth in foster care, but also to ensure that they do not~~

1 ~~unnecessarily stigmatize foster youth and children by requiring~~
2 ~~them to live in environments that are not ordinarily imposed by~~
3 ~~reasonable and prudent parents. The workgroup shall also assess~~
4 ~~whether the statutes, regulations, and policies unnecessarily~~
5 ~~hinder the recruitment of qualified foster parents that can provide~~
6 ~~effective substitute care services. Additionally, the workgroup~~
7 ~~shall consider opportunities for creating efficiencies within the~~
8 ~~community care licencing division of the department that do not~~
9 ~~risk the safety of children and youth in foster care. For purposes~~
10 ~~of this section, the workgroup shall review all state statutes,~~
11 ~~regulations, and policies that establish facility, training, or~~
12 ~~individual licensing standards and requirements for the~~
13 ~~out-of-home care and placement of children and youth in foster~~
14 ~~care to ensure their conformity with the requirements of this~~
15 ~~section.~~

16 ~~(b) The director shall convene the workgroup required by this~~
17 ~~section no later than February 1, 2007. The members of the~~
18 ~~workgroup shall include any departmental staff designated by the~~
19 ~~director and representatives of the County Welfare Directors~~
20 ~~Association, foster youth and former foster youth organizations,~~
21 ~~foster parents, children's advocacy groups, consumer and service~~
22 ~~provider organizations, legislative staff, and other interested~~
23 ~~parties.~~

24 ~~(c) No later than December 31, 2007, the workgroup shall~~
25 ~~issue a report and make recommendations to the Legislature and~~
26 ~~the director for statutory, regulatory, and policy changes that will~~
27 ~~accomplish the objectives identified in subdivision (a).~~

28 *SEC. 2. Section 1530.3 is added to the Health and Safety*
29 *Code, to read:*

30 *1530.3. The director shall report to the Legislature during the*
31 *2007-08 budget hearings on the progress of the department's*
32 *children's residential regulation review workgroup. The report*
33 *shall include all of the following:*

34 *(a) A summary of the activities of the workgroup up to the date*
35 *of the report.*

36 *(b) The timeline for completion of the workgroup's activities.*

37 *(c) Any recommendations being considered for statutory,*
38 *regulatory, and policy changes, and any workplan for the*
39 *implementation of those recommendations.*

1 (d) *An assessment of how the proposed recommendations will*
2 *eliminate stigmatizing impacts on foster children and youth, and*
3 *promote the recruitment of qualified foster parents.*

4 SEC. 3. Section 1536.2 of the Health and Safety Code is
5 amended to read:

6 1536.2. (a) When a placement agency has placed a child with
7 a relative caregiver, nonrelative extended family member,
8 licensed foster family home, ~~or a foster family agency for~~
9 subsequent placement in a certified family home ~~or~~, *or with a*
10 group home, the placement agency or foster family agency shall
11 ensure placement of the child in a home that best meets the needs
12 of the child.

13 (b) A home that best meets the needs of the child shall satisfy
14 all of the following criteria:

15 (1) The child's caregiver is able to meet the health, safety, and
16 well-being needs of the child.

17 (2) The child's caregiver is permitted to maintain the least
18 restrictive and most family-like environment that serves the
19 needs of the child.

20 (3) The child is permitted to engage in reasonable,
21 age-appropriate activities, including, but not limited to, the
22 following:

23 (A) Participating in athletic and recreational activities,
24 including water activities.

25 (B) Remaining in the home alone for short periods of time, if
26 deemed safe and appropriate.

27 (C) Having appropriate access to household and personal
28 cleaning products, such as laundry detergents and shampoos.

29 (D) Having appropriate access to over-the -counter medicines,
30 for the purpose of learning reasonable self-care.

31 (E) Other activities intended to foster a normal, family-like
32 environment for the foster child.

33 (4) The foster child's caregiver shall use a reasonable and
34 prudent parent standard to determine activities that are
35 age-appropriate and meet the needs of the child. Nothing in this
36 section shall be construed to permit a child's caregiver to permit
37 the child to engage in activities that carry an unreasonable risk of
38 harm, or subject the child to abuse or neglect.

39 SEC. 4. No reimbursement is required by this act pursuant to
40 Section 6 of Article XIII B of the California Constitution because

1 the only costs that may be incurred by a local agency or school
2 district will be incurred because this act creates a new crime or
3 infraction, eliminates a crime or infraction, or changes the
4 penalty for a crime or infraction, within the meaning of Section
5 17556 of the Government Code, or changes the definition of a
6 crime within the meaning of Section 6 of Article XIII B of the
7 California Constitution.

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